

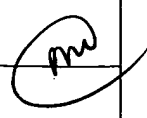


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,618	12/24/2003	Aaron Golle	1748005US1	1477
21186	7590	09/14/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	
DATE MAILED: 09/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/707,618	Applicant(s) GOLLE ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050719</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. If applicant desires to claim the benefit of a prior-filed application under 35 U.S.C. 120, a specific reference to the prior-filed application in compliance with 37 CFR 1.78(a) must be included in the first sentence(s) of the specification following the title or in an application data sheet. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications.

If the instant application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable

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petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

#### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

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The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

It does not have the signatures of each inventor.

### ***Drawings***

3. The drawings are objected to because Figure 15 has incomplete reference numerals on the far left. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

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examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - a. Page 4, Paragraph 28, Line 1: Misspelling – “electro luminescent” should read as “electroluminescent”;
  - b. Page 6, Paragraph 31, Line 3: Typographical error – “surface 210” should read as “surface 310”;
  - c. Page 8, Paragraph 36, Line 3: Typographical error – “safety sing” should read as “safety sign”;
  - d. Page 10, Paragraph 42, Line 4: Typographical error – “on the real” should read as “on the rear”;
  - e. Page 10, Paragraph 45, Line 4: Grammatical error – delete comma;

Numerous typographical/grammatical errors are replete throughout the application. The examiner has forgone any correction due to the amount, and the specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Appropriate correction is required.

### ***Claim Objections***

5. Claim 5 is objected to because of the following informalities: Applicant recites the limitation, “colors”, which lacks antecedent basis. Applicant is encouraged to revise

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the claim to read, "wherein the illuminated color and non-illuminated color comprise two or more of yellow, white, and blue-green". Appropriate correction is required.

6. Claim 11 is objected to because of the following informalities: Typographical error – "claim 1attached" should include a space so as to read, "claim 1 attached".

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 8, 14, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationship is the unmentioned structure that is light green. It should further be noted that the limitation, "the light green", lacks antecedent basis, and that the limitation, "complies with government regulations for color", is a standard that may change over time and fails to provide adequate structure. The examiner has assumed the best-deemed interpretation in the prior art rejection below.

9. In Claim 1, the applicant recites, "An EL sign for use on a vehicle", which would render Claims 14 and 19 indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, since Claims 14 and 19

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recite the EL sign being attached to a bridge structure and an article of clothing, respectively. The examiner has assumed the best-deemed interpretation in the prior art rejection below.

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The following claims have been interpreted in light of the specification, but rendered the broadest interpretation as construed by the examiner [MPEP 2111].

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 9-13, 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman (U.S. Patent 5533289).
11. With regards to Claim 1, Hoffman discloses an EL sign [Figure 1] comprising an EL illuminated color and non-illuminated color [Column 3, Line 62 – Column 4, Line 31].
12. With regards to Claim 2, Hoffman discloses the illuminated color being different from the non-illuminated color [Column 4, Lines 26-31].
13. With regards to Claim 3, Hoffman discloses the non-illuminated color being effective for signaling a safety message in daylight [Column 2, Line 14; Column 4, Lines 7-10].



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14. With regards to Claim 4, Hoffman discloses the illuminated color begin effective for signaling a safety message in the dark or other conditions of poor visibility [Column 2, Line 14; Column 6, Lines 5-11].

15. With regards to Claim 9, Hoffman discloses a layer that alters the color of the EL lighting [Column 4, Lines 26-31].

16. With regards to Claim 10, Hoffman discloses safety indicia defined by the illuminated color [Column 3, Line 62 – Column 4, Line 6; Column 4, Lines 10-15].

17. With regards to Claim 11, Hoffman discloses safety indicia defined by the non-illuminated color [Column 4, Lines 7-10, 15-20].

18. With regards to Claim 12, Hoffman discloses safety indicia defined by the illuminated color and the non-illuminated color [Column 3, Line 62 – Column 4, Line 31].

19. With regards to Claim 13, Hoffman discloses the EL sign being attached to a main body of a vehicle [Column 6, Lines 1-6].

20. With regard to Claim 15-16, Hoffman discloses that a flasher/blinking mechanism “can be” incorporated into the system [Column 5, Lines 40-42], and thus, said EL lighting would be inherently static.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 5-8, 14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (U.S. Patent 5533289).

22. With regard to Claims 5-6, Hoffman discloses the claimed invention as cited above, but does not specifically teach the EL illuminated color and non-illuminated color comprising of two or more colors of yellow, white, and blue-green (re: Claim 5), nor teaches a layer that imparts a yellow tint to the sign. However, Hoffman does teach contrasting colors, as well as a tinting layer, for the EL lighting device [Column 4, Lines 26-31]. It is considered an obvious matter of design choice with respect to the contrasting colors of the device, whereby signs are commonly known in the art to have two or more colors of yellow, white, and blue-green, as well as, a layer that imparts a yellow tint.

23. With regard to Claims 7-8, Hoffman discloses the claimed invention as cited above, but does not specifically teach the layer imparting a yellow appearance to the sign in daylight and a light green appearance at night (re: Claim 7), whereby the light green appearance complies with government regulations for color (re: Claim 8). However, Hoffman does teach a tinting layer for the EL lighting device [Column 4, Lines 26-31]. It is commonly known and obvious matter of design choice that one ordinarily skilled in the art could implement a yellow layer to a sign for viewing during daylight and that a colored light may be illuminated through said yellow layer to produce a government regulated light green during night time.

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24. With regard to Claims 14 and 19, it is commonly known and obvious within the art that signs may be applied to a bridge structure (re: Claim 14) and to an article of clothing (re: Claim 19).

25. With regard to Claims 17-18, Hoffman discloses the claimed invention as cited above, and because the structural limitations are satisfied by the prior art, it is considered obvious that one ordinarily skilled in the art could provide a method claim of making/manufacture from said structural limitations of an apparatus claim.

26. With regards to Claim 20, Hoffman discloses the claimed invention as cited above, but does not specifically teach two or more signs. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate multiple signs, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. In this case, multiple signs would provide for greater warning and effectiveness in conveying a message.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application, but are not considered exhaustive:

US Patent 4603065 to Mori et al;

US Patent 6309764 to Burrows.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (9/12/2005)

  
Stephen Husar  
Primary Examiner